

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,
Plaintiff,

vs.

No. CR 09-3207 JB

DAVID AGUILAR
Defendant.

MOTION IN LIMINE TO EXCLUDE HEARSAY

COMES NOW, David Aguilar, through his counsel of record, Erlinda O. Johnson, and hereby moves this Court for an *in limine* order excluding the introduction of hearsay statements made by the confidential source and in support thereof submits the following:

1. On October 15, 2009, Mr. Aguilar was arrested for conspiracy to possess with the intent to distribute more than 500 grams of cocaine.
2. During the investigation, law enforcement officers utilized a confidential informant who provided them with information regarding alleged drug trafficking activities of Mr. Mirabal. This information constitutes hearsay statements that are inadmissible.
3. A statement, other than one made by the declarant while testifying at the trial or in hearing, offered in evidence to prove the truth of the matter asserted constitutes hearsay. Fed.R.Evid. 801(c).
4. The statements provided to law enforcement by the informant relate to the informant's belief that Mr. Mirabal was a kilogram quantity trafficker and other trafficking related activities of Mr. Mirabal. This information constitutes hearsay and any

mention of it or testimony on its reliance by agents, in this case, should thus be excluded.

Wherefore, for the foregoing reasons, Mr. Aguilar respectfully requests this Court exclude hearsay statements made by the informant, any testimony from government agents that they had information from the informant that Mr. Mirabal was a drug trafficker or testimony that agents relied on hearsay information.

Respectfully Submitted,

Electronically filed on 7/23/10
Erlinda O. Johnson
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I hereby certify that a true and correct copy of the foregoing was provided, electronically, to opposing counsel of record via CM/ECF on this _23rd_ day of July, 2010.

Electronically filed on 7/23/10
Erlinda O. Johnson
Attorney at Law

